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THE JUVENILE COURT AND THE EDUCATIONAL SYSTEM

THOMAS D. ELIOT¹

I*

Probation is, socially speaking, a kind of special education applied to behavior problems. It bridges a gap—or partly bridges it—between the ordinary school system and the “Industrial” or “Reform” schools. It was attached to courts as a preferable alternative before prisons and other institutions for delinquents were conceived in terms of re-education. It is still a desirable alternative, but its own essentially educational character is insufficiently recognized.

Aside from historical causes, there is no more reason why probation should be administered by a court than that institutions for the insane or classes for defectives should be so administered. The court needs impartial investigating services; but its wards might be assigned to a probation staff organized under official educational auspices quite as logically as to independent organizations or individuals (as at present), or to parental schools under the board of education. Whether or not the correctional and rehabilitative institutions of the state be organized, as in Indiana, under the same department with the schools, they should eventually be considered as forming parts of a continuous Educational System—ranging from the ordinary school curriculum and higher and adult education program on the one hand, to the most drastic re-educational treatment for extreme variates on the other; correlating throughout (and especially in the latter field) with medical agencies.

Under such a system it would, in many cases, be possible to secure by mutual consent treatment which now requires (1) marked maladjustment or aberration, (2) a court trial, and (3) a commitment which, at least in form, is compulsory and therefore carries a stigma.

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*The ideas expressed in Section I are to be found elaborated in the writer's book, “The Juvenile Court and the Community,” American Social Progress Series, MacMillan, 1914; and in the Annals of Political and Social Science for 1914 (volume on Reform in Administration of Justice).

Cf. also review of “The Legal Aspect of the Juvenile Court,” by Bernard Flexner and Reuben Oppenheimer, appearing in this issue of the JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY.

It should not be necessary to add that the writer does not advocate their adoption *in toto* in any given city, but here presents them as an ideal logically worked out, and to be worked toward in new developments.

In the institutions for extreme variates, there would be, it may be assumed, comparatively few inmates voluntarily resident; but the law need not preclude the possibility. In more moderate agencies (Houses of Refuge, Truant Schools, Probation, etc.) there would be many minors whose custody would be surrendered to the institution by common consent of guardians and educational authorities, after due inquiry and filing of records. Others would be there, in charge of the same agencies, but compulsorily, upon court order; but not until every effort had been made to adjust the matter on a voluntary basis. As a last resort, either the guardian or the agent would have appeal to the court, which would then give each his "day in court," inquire into the facts and declare which party should retain custody of the child. Whatever the treatment then ordered (even if the guardian is found justified in his stand), the appropriate agency would then be authorized to carry it out on a compulsory basis; subject only to further court action, initiated by guardians or by the minor himself. Only in the absence of legal guardians would the court take the initiative, and even then only to appoint some new legal guardian.

After all, the primary function of a court is to give sanction to a decision between two conflicting claims. In cases involving minors, the essential conflict is between guardians on the one hand and social or educational agencies on the other as to the control and custody of the minor involved. In the absence of any such conflict, the court's function is a legal fiction. In the presence of any such conflicting claims, the court is and always will be a social necessity in a democracy.

At present, however, the court's jurisdiction is limited in two ways, with a corresponding limitation upon its usefulness to educational agencies and the parents of children: (1) Children must have deteriorated pretty far before the court can take official cognizance of a conflict of interests arising out of their conduct; (2) the court must still deal with the child, as an "individual," rather than with the total family situation and its social-adjustment problems.

(1) To remedy the first difficulty, it is proposed that the court be given jurisdiction over all children's cases, not merely serious defectives and delinquents. This does not mean that the courts will run the schools, nor that a court order will be necessary for any and every change of treatment. It does mean that educational agents could turn to the court for backing against recalcitrant parents in securing remedial measures *early in the process of aberration*—not waiting until the child has gone well "down the primrose path to the everlasting bonfire." And parents, also, would thus have a court of appeal against

incompetent or doctrinaire school men. The presence of a court with ample jurisdiction and a tradition of wise precedents would, however, greatly strengthen the hands of competent educational authorities.

(2) The relation between parent and child is a domestic relation, and the responsibility for the minor rests with the guardian. It seems, therefore, appropriate that, as now in Cincinnati, Portland (Oregon), and elsewhere, the juvenile jurisdiction be merged with the domestic relations (and perhaps "minors" and "morals") jurisdiction in a Family Court, with separate sessions for the respective types of cases, but with machinery for dealing with the family of a delinquency or neglect case as a unit.

II

A study² of the so-called "Unofficial" or "Informal" work of juvenile courts reveals the almost total absence of any socially economical correlation between the courts and the educational systems of our cities. The failure is twofold: (1) The educational systems, providing partially for special groups of difficult children, have not reached out adequately to include children whose difficulties are behavior difficulties other than truancy. (2) Courts have not interpreted delinquency to the community; they have not urged educational agencies to assume their appropriate responsibility for preventive treatment of semi-delinquent children. They have permitted the child caring system to "pass the buck" to the courts. Whether or not these shortcomings have been affected by the over-vogue of the juvenile court in its earlier years is beside the mark. But the absence of recognized special educational services for misbehaving children has meant that the educational agencies have lost control.³ Children morally adrift from school and home have then bumped up against "the law"—meaning the machinery of the courts. But many such cases⁴ are seen to be adjustable "without court record"—i. e., by mutual voluntary agreement and without the social stigma of a mandatory decision. In such cases the investigating official calls it an "unofficial case," and either dismisses it or keeps it under informal supervision. The bulk of such work by court officials is surprising, and is on the increase, rising in some places to 85 per cent of the total number coming to the attention of court officials.

²Cf. Thomas D. Eliot, "The Back-to-the-School Movement," *The Journal of Delinquency*, November, 1922.

³This is particularly true after the "school age" is past. Juvenile crime is at its worst between 15 and 21 years. Also for vacation periods.

⁴By a case is meant the whole behavior situation, including the physique, the heredity, the habits, the history, the family, the social background. Cf. "A Limbo for Cruel Words," *The Survey*, June 15, 1922.

Doubtless the more time (i. e., available personnel) is at the disposal of a probation office, the more cases can be adjusted adequately without compulsory treatment. But in certain cities, it is to be feared, the burden of serious cases is so great that many situations really needing careful case-work are left in the "unofficial" class as a mode of sifting and lightening the work of the court. Whether or not this be the case, the danger is that such cases will be slighted: they seem less emergent, and the court has no legal responsibility. In fact, certain courts would fear criticism if their officers put too much time upon "extra-legal" work.

Yet the tendency is, even in such cities, to pride themselves on the number of children "kept out of court"; and the impression is created that these quasi-delinquents are thus properly cared for. But no agency is really responsible, and these children, many of them quite as deeply in need of intensive care as any others, suffer as a result. Sometimes they are referred to some social agency; sometimes not. The total absence of standards in the treatment of quasi-delinquents is evidenced by the impossibility of working out a practicable questionnaire which would fit all the permutations and combinations in the several cities, no two of which are alike in this respect.

III

The writer presents herewith the opinions of a few court officials in respect to this type of work.

Judge Sellers of Washington said, in 1921:

"Either a charge should be regularly made against all girls and boys arrested and their cases heard as soon as possible or the children should not be detained. And certainly no child should ever be put on probation except by a court."

Judge Hulbert of Detroit thus stated his view:

"At what point in the procedure should the actual hold of the court over the child begin? If we take my view of the police department or the detention home, they will be able to eliminate a very great number of cases without any record whatever. It should begin, therefore, when it becomes necessary to file a definite complaint in the court and the child is made a part of the court record."

Mr. Eslick of the Des Moines court, where this work has been heavily developed, believes it very important that all courts should develop it, unless they have insufficient personnel, and that the probation office is the proper agency to handle the work permanently.

Mr. Hush (Minneapolis) writes: "Ever since the establishment of our 'informal hearing' plan, the judge and all others concerned have thoroughly approved of the plan and its results; 93.9 per cent of the 459 cases so handled in 1921 have not returned to court."

Mr. Gascoyne, of Newark, N. J., finds official probation supervision best for his locality, and feels that the policy of courts in this respect is to be judged by the character of the supervision as applied.

Dr. Robinson (formerly chief probation officer) thus described the plan in practice at Philadelphia:

"With us the complaints . . . go direct to the five supervisors of districts. They listen to the stories and decide whether to try to persuade the individual to drop the matter or to refer to another agency, public or private, or to file a petition immediately, or to send a probation officer out to investigate the situation. All sorts of petty complaints come in to the supervisors, many of which can be settled either by the supervisor in the office or by the probation officer in the field. The case may be one where the parents are responsible people willing to settle for the damage that their child has caused, and capable of giving to him better oversight now that they know what he is doing. Or the case may be one of neighborhood quarrels between children, where little blame can be attached to any one child. Sometimes it means referring the case to the Bureau of Compulsory Education. . . . Sometimes it is advisable to bring the case before the referees—four probation officers, two men and two women—who sift out cases daily, sitting at the Juvenile House of Detention. Altogether, there is a large amount of work of this kind, which takes up time and requires a full knowledge of the social resources of the city, as well as patience and tact. . . .

"Four of our probation officers, two of whom are the superintendent and the assistant superintendent of the Juvenile House of Detention, act as referees, hearing all arrest cases and disposing of the minor ones not subject to commitment. Their decisions for discharge or probation are approved automatically by the court. Many other examples might be given of this kind of work which can be done by a well-organized probation staff. It may be interesting to note in passing that over seven in every ten cases brought to the attention of the juvenile division of the Municipal Court of Philadelphia were settled by the probation department without bringing the cases into court.

"In 1920 the arrest and complaint cases in juvenile delinquency, neglect and dependency brought to the attention of the juvenile division, and which were within the jurisdiction of the juvenile division and were disposed of before the close of the year, numbered 8,757. Of this number, 6,273, or 71.6 per cent, were adjusted before the close of the year by the probation department."⁵

⁵Proceedings of the Conference on Juvenile Court Standards, Children's Bureau Publication No. 97 (Washington, 1922), pp. 90-91, 71-72, 20-21.

Mr. Walker added the following:

"We have been having the referees in those girls' and boys' cases since 1915, and public sentiment seems very much in favor of it. When we get a lawyer, he comes from the state courts or police court and wonders what we are doing. We explain the practice, and he asks, 'What are your legal grounds for this?' 'Oh,' we say, 'we just have a little clause which reads something like this: "It shall not be necessary to detain a child at the house of detention if in the judgment of the probation officer, now or hereafter to be appointed under the law, it may be disposed of otherwise.'" Therefore, we have assumed a very broad judicial determination.' I don't know how far it would go if they carried it to the appellate court. However, we have had it for five years. For instance, an officer today brings in a boy for breaking a window. He is taken before the referee in boys' cases; the owner of the place whose window was broken is there. The parents are willing to pay this man for the broken window. It is done right there. The decision is sent in to the judge, and he approves the action of the referee. In girls' cases the practice is quite similar. The referee is practically the outpost in our socialization; and we have public sentiment with us."⁵

In view of the bulk of this extra-legal practice in the majority of our city courts, it is extremely desirable that it be standardized. The Philadelphia court offers high standards. Yet if standardized, as part of the court work, it may tend to become a permanent adjunct of the court, and that is by no means a desirable result, if the theory of separation between judicial and educational functions is to be maintained.

Replies to the questionnaire on the subject, together with the attitude of the profession in general, seem to indicate a lack of appreciation of the significance of this spontaneous phenomenon of masses of "unofficial" cases drifting up against the threshold of the court. *It is a challenge to the educational system.* It is a challenge also to the probation officers and judges, who are in a position to *see* this challenge to the educational system. The courts can interpret the situation to the public and to the school authorities. The probation officers can co-operate with every effort of the educational agencies to assume the burden of the quasi-delinquent. Aside from humanitarian and social economic reasons, they should be glad to be relieved of part of their already too great task. That most educational systems are as yet inadequately manned or equipped to undertake such work is no real reason for not officially encouraging those policies and successful experiments which promise progress in this direction.

While a majority of replies indicate that probation officers approve the extension of work for behavior-problem children within the present

educational system, they do not seem to indicate any realization that such work would or should relieve them of most of their own (unofficial) work with quasi-delinquents.

IV

In this connection it should be of interest to review the studied opinions of educators and of court and probation authorities on the relation between probation and education. The writer has, of course, selected passages corroborative of his own views, but does not recall any authorities of equal weight who take direct issue with the ideas below quoted.

Opinion in the South⁶ and among judges is, however, naturally more conservative in respect to such proposals as that of voluntary change of custody or eventual control of corrections by educational boards. In justice to himself, the writer repeats in this connection that the theory offered here and elsewhere is not proposed as an immediately practicable program but as a set of principles basically sound, of which most of the features are already exemplified here and there, though not in any fully worked out program. In any given city or state, local expediencies and vested interests must influence immediate policy; in new laws and new cities there should be opportunity to work out in practice the ideas expressed hereunder.

At the Fourth International Congress on School Hygiene (Buffalo, 1913) Director Jones, of the Northwestern University School of Education, called attention to the responsibility of the school for the delinquent girl.

Flexner and Baldwin express themselves as follows, in their standard work, published in 1914:⁷

“ . . . The chief probation officer or the judge can take up directly with the schools the possibility of keeping many of these children out of court. In several cities, for instance, a large number of children are prevented from coming to the Juvenile Court by the establishment of special rooms in the public schools, these rooms receiving truants or incorrigible children from the grade schools on certificate of principals to the superintendent of instruction that the children in question are beyond their power to manage. Few principals are willing to sign such a certificate. In one city the result in three years was that three rooms of fifteen misfits each had been reduced to less than enough for one room. This process,

⁶E. g., Judge Ricks, Judge Murphy, Prof. Bidgood.

⁷Baldwin and Flexner, “Juvenile Courts and Probation,” Century Co., 1914, p. 166. It is from Mr. Roger Baldwin’s ideas as then expressed that the present theory takes its origin; but the theory as worked out by the writer would not be accepted by him.

of course, properly forces back upon each school the responsibility of dealing with the exceptional boy. In time all cases of delinquency not due to individual defectiveness can probably be reached by the school authorities during the school period up to fourteen years. As the school and the home become more closely related, there will be cut off a large percentage of delinquent children who come to the Juvenile Court from the public schools.

"New York City offers a type of co-operation between home and school that other cities might do well to imitate. In 1906 the visiting teacher was put into the field for the purpose of dealing intelligently, sympathetically and promptly with the child who had for one reason or another become a problem at school. The following year, 1907-08, connection was made with the Public Education Association, a volunteer organization that supplements the work of the Department of Education. It is the visiting teacher's duty to focus the attention of school and home so effectively upon the child that he may be spared the service of the remedial agencies afforded by the community. She does this by studying him intimately at school, at home and in his immediate neighborhood, thereby establishing a close friendly relation with him. Visits innumerable she makes to him and his haunts day or night, whatever and whenever the occasion demands. Gradually with the visiting teacher as a "go-between," the principals and teachers come to know him as he is outside the class room and likewise the mother and father are brought face to face with him in his school relations. As a result of this exchange of views, opinion regarding him shifts, judgments sometimes soften, and, what is more, rational treatment follows.

"In every city the police annually arrest large numbers of children for minor offenses, things which can and should be adjusted between the police officer and boys' parents—cases in which there is no desire on the part of anyone to prosecute. *Every Juvenile Court should so educate the police that these minor cases can be handled intelligently without reference to the court.* There is no superior wisdom in the Juvenile Court which enables such trivial cases to be better handled. While in many communities the police system is unresponsive, it is nevertheless true that much can be done toward socializing the force, and training them to co-operate with the court.

"Much more can be done to interest churches in the problems of their neighborhoods, and in the children of their congregations. The court should point out through judge and probation officers just how in any given district the church can assist not only individual families and children, but can help to provide general means for recreation and improved social life.

*"In cases of delinquency this larger co-operation then will throw back upon the school, police and neighborhood for solution many of the problems with which the probation officers now deal, and with which they can deal only feebly and ineffectively."*⁸

* A few years later, Mangold wrote:⁸

⁸Mangold, G. B., "Problems of Child Welfare," Macmillan 1919 p. 390.

"Although the juvenile court carries on preventive work, its function in this direction is comparatively limited, and it remains for other agencies to develop the constructive work in a community so that delinquency may be prevented."

Calvin Derrick, the well known superintendent of institutions for delinquents, wrote:⁹

"The possibilities and handicaps of the child should be discovered before he reaches the juvenile court. If he has physical, and health handicaps which are bound to interfere with his development and progress in school, these things should be discovered by the public clinics before he reaches school. If he has mental handicaps which are sure to retard his progress in the public school, that fact should be discovered early in his school career and his course of study individualized and promoted with the idea that he may be developed in more than one direction. The public school course must be flexible and sufficiently varied to be able to retain the interest and to promote the educational and vocational training of these children who reach their mental maximum in the middle grades of the public school, and below the age of fourteen in order that they may not be forced into truancy on the one hand or a dull, uninteresting school life on the other."

Dr. Lilburn Merrill, formerly chief in the Seattle Court, says:¹⁰

"My remarks will aim to re-emphasize the present-day view of sociologists that there is such a condition as incipient criminalism and that the way of approach to its effectual treatment does not necessarily lead to the juvenile court. . . . The study of causation has revealed the importance of these observations by indicating that juvenile delinquency is a state or attitude of mind which develops gradually and presents a series of early symptoms that are observable and which may point the way more often than we are aware to corrective treatment. . . .

"A requisite then for securing results in the treatment of delinquents is to detect the social deviation and its cause early. This would appear to be easy enough and the current popular idea is that such incipient misconduct should be speedily referred to the juvenile court. But as a matter of fact this popular misconception is producing one of the seriously important faults in court administration, and a fault that is least easily corrected. . . . The obligation which incipient delinquents place upon the court very naturally causes the probationary function to be used in their behalf, and the behavior of the children being so akin to the community average, the probation officer's supervision is apt to be of a desultory sort and in the end detrimental by encouraging the child to form a wrong conception of the seriousness of the court's function. Or, on the other hand, if the court agent follows after his ward with the persistent aggressiveness that should characterize his supervision the child's parents may be ex-

⁹Proceedings of the National Probation Association for 1920, pp. 143-4.

¹⁰Public Schools and the Treatment of Delinquent Children," The Journal of Delinquency, Vol. V., No. 6, November, 1920.

pected to resent the oversight, if they do not openly declare that the court is becoming needlessly meddling. . . .

"What needs to be done and is being done with increasing care in several communities is to recognize the indications of incipient delinquency and apply corrective treatment in the form of social or personal readjustment at the earliest possible moment through the instrumentality of the schools. . . .

". . . the court should be encouraged to function in a personal relation with the child only when relief is not otherwise obtainable. . . .

"Neither teacher nor principal may fairly be expected to serve as a master of discipline to investigate a child's community acts, except in so far as the child's outside behavior is detrimental to his personal progress and his relationships to the school. And even in the care of such conduct situations which are known to have an important connection with the child's school activities, it is expedient to have the police or some other agent do any field work that may be required. Furthermore, I would equally eliminate any such responsibility from the superintendent's office and from the duties of so-called school attendance officers. . . .

"In its place I would establish a department of adjustment, to be organized as a clinical agency. . . .

"To the department should be referred all children whose behavior or whose social tendencies make them misfits in the group organization and defy the methods of correction that are within the province of the principal. . . .

"There will always be children present for consideration who are involved in family and other environmental situations which make it necessary to secure a change of custody. Such treatment by adjudication, obviously, may only be provided by the courts. In these cases the school agent would represent the child in any proceedings which might be carried over from the department into the court."

Mrs. J. P. Mumford of the National Congress of Mothers said, in a recent discussion:¹¹

"I am glad to see that it has been agreed here this morning that it is possible to scrap even a new institution if it is not doing all the work it should be doing.

"I want to make one suggestion, that perhaps the public schools might take over a part of the work now being done by the Juvenile Court, which comes properly within its survey. Where there is a compulsory education system there is practically a little court for children, with officers who visit the homes of children. . . . It is my thought that truant children should be dealt with within the school, and never have to carry the stigma of having been arrested or seen in a court of law."

Dr. Helen T. Woolley then remarked:

"I was very glad to hear Mrs. Mumford mention the public school. Here was the first mention¹² of the schools as an agency to be counted upon in helping to solve the problem of delinquency."

¹¹Children's Bureau Conference on Standards of Child Welfare, 1921.

¹²At that conference.—T. D. E.

A description of her own remarkable work followed.¹³

Dr. H. H. Goddard, formerly Director of the Ohio Bureau of Juvenile Research, says in his new book:¹⁴

“For the matter of delinquency the machinery for local control is very largely in existence at the present moment. The machinery is the public schools. We have already defined delinquency as failure to keep up with the requirements of the group; delinquency is thus a social fault, not an individual one.”

Carrie Weaver Smith, Superintendent of the Girls' Training School at Gainesville, Texas, protesting against a proposed merger of the National Conference on the Education of Truant, Backward, Dependent and Delinquent Children with the American Prison Association, writes:¹⁵

“. . . The truant, backward, dependent or delinquent child is the job of the educator and the physician only. . . .

“. . . There should by all means be a national conference of juvenile agencies, but it should be absolutely divorced from the American Prison Congress, and if it must affiliate with another organization, it should consolidate with the National Educational Association.”

Judge Samuel D. Levy of the Children's Court of the City of New York writes:¹⁶

“The problem of delinquency and anti-social conduct of children should have its intensive study in the schools, commencing with the kindergarten where the mental and physical observations should be carefully noted upon individual cards and re-examinations made every six months; so that the first act of truancy—a prime forerunner of anti-social conduct—can be nipped in the bud; so that any unsocial act can be properly diagnosed and its genetic factor or factors analyzed; so that the charted history will tell us, and tell us plainly, cause and effect. These records will serve at times a paramount place in criminal history; will give us causative factors as we never had them before. Primarily, misbehavior of any and every degree should be treated as a matter peculiarly within the province of the public school system, to be administered by special teachers in that department.

“If the public schools neglect or refuse to do this great preventive, corrective, and most constructive work, then the Big Brothers and Big Sisters of all the faiths—and *not* the probation officers attached to the courts—should do it.”

Mr. Hush (Minneapolis) writes:¹⁷

“I believe the educational system will eventually take over most of

¹³See below, p. 27.

¹⁴Henry H. Goddard, “Juvenile Delinquency,” p. 110.

¹⁵Survey, October 15, 1922, p. 121.

¹⁶Correspondence.

the corrective institutions for children, but surely the time is not ripe for that yet."

Mr. Gascoyne, of Newark, N. J.,¹⁷ feels that, if any other agency is to assume responsibility for semi-delinquents upon a non-compulsory basis, Children's Aid Societies are appropriate to the task.

Mr. Moss, of Chicago, says¹⁷ he is in favor of the educational system extending its activities in the direction of taking over a great deal of the follow-up work of unofficial cases.

Leon Stern, of Philadelphia, writes:¹⁷

"I certainly think that the educational system should extend its work to include this sort of preventative work done by the White-Williams Foundation, either through a department of its own or by an affiliated system such as the one which has been so successful in Philadelphia.

"I would say that the school authorities should make an attempt to reduce the grist of the cases that come to the juvenile court. The schools should also supervise the girls at the adolescent and pre-adolescent age when sex problems are uppermost. However, I think the thing that we should work for is an underlying basis for such a program and that is a socialization of our school system. Few of us realize that our school system is not altogether a social institution in many ways. Teachers are not used to think very often of a child outside of the classroom and outside of the curriculum."

Miss Weed (State Board of Charities) writes,¹⁸ of California conditions:

"When such matters as truancy, and other minor delinquencies, are not handled by school authorities I am inclined to think it is a failure on the part of the school, rather than a desire on the part of the court to handle these cases."

Mr. Loepere, of Buffalo, says:¹⁸

"School departments should assume more sympathetic and comprehensive responsibility. The school has closer contact with the child and more information concerning the child's characteristics than any other agency excepting the home—and more than some homes . . . juvenile court officials, on account of their understanding of child conduct should, however, be ready at all times, when requested, to advise school teachers, principals and parents. An early study by the school of the child who misbehaves, and proper treatment for the misbehavior, peculiarities, or inabilities, will, in many instances, preclude the necessity of later action by the children's court."

Judge C. W. Hoffman, of Cincinnati, said, in 1921:⁵

"It has been well urged that some agency, preferably the schools, may be able to handle the problem of delinquency more efficiently than the

¹⁷Correspondence.

¹⁸Correspondence.

court, but it must be remembered that there will always be the necessity for some legal adjudication of the rights of the parents and some procedure authorizing the administration of the relief needed. In thousands of cases it is possible for the juvenile court to show that the child of abnormal physical or mental structure has been in the public schools for seven or eight years, and his abnormalities have not been detected. In numberless instances it can be demonstrated by the juvenile court that the egocentric boy, because of the failure of the schools to ascertain his abnormal tendencies, has been permitted to pass through the grades, only to be finally engulfed in the stream of delinquency. . . .

"It is within the province of the schools so to educate and train this abnormal and feeble-minded class that they may not finally become victims of delinquency. . . .

"It is not possible to transfer the work of the juvenile court to the schools or to any other administrative agency until the juvenile court itself demonstrates to the public the necessity of such a transfer. . . .

"The schools unquestionably can finally take over the great part of the work, but other organizations must assist in cases that cannot be handled by the schools."

In his report for 1919 (MSS) Judge Hoffman says:

"The anti-social conduct of children is essentially an educational problem. It is for this reason that the suggestion has been made that a great part of the administrative work of the juvenile court be merged into the public school system. . . . It is to be hoped that an increasing number of offending children will be taken there in the first instance rather than to the court. . . . All the children of school age should be taken immediately to a specially organized department of the public schools and no official record made in the court except when parents object and an order is necessary; in fact, few parents will object when they understand that the purpose is to help the child and keep him out of court.

"In respect to normal children who offend, it is the opinion of many educators that they can be saved by a course of education and training designed for this particular purpose. If this statement be doubted, the school is the institution in which to test its soundness. . . .

"All normal children who cannot be cared for by the Board of Education should receive practically the same treatment as that afforded by the special schools dealing with delinquency."

A. C. Crouse, Chief Probation Officer at Cincinnati, in his report for 1919 writes:

"The psychological effect on a child taken into court on a delinquency charge is very bad. In many instances the boy becomes, in his own mind, a hero. In other cases he feels that a stigma has been placed on him. In either instance he becomes a great problem.

"Realizing this the officials of the court have felt that it was their duty to adjust as many cases as possible without official action, having in view at all times the welfare of the public as well as that of the child. The results have more than justified the action."

Judge Benjamin J. Shove said, in 1915:¹⁹

"Is it not time that our great state, always foremost in educational matters, is providing an education suitable to the capacity and characteristics of each individual child?"

C. S. Chute, Secretary of the National Probation Association, in his recent pamphlet²⁰ says:

"Many children now passing through the courts could appropriately be dealt with by the public schools if the latter were equipped with sufficient attendance officers or visitors . . . the schools are generally underequipped for handling the normal child, and, though excellent work is done in many cities with truants and delinquents by means of ungraded, truant, and parental schools, most of the school authorities have been only too glad to leave the handling of delinquents outside of the special school to the court. As a large number of the children dealt with in children's courts have already left school, any general turning over of the parental function of the juvenile court to the school system will have to await the time when the schools will oversee the education and training of every child at least up to the age of 18 years.

"In any case, whether probation work with school children is to be more largely carried on by the schools or is to remain, as now, in the juvenile court, a closer co-ordination of the two services should be worked out."

V

Hardly a conference of social workers in recent years but has been peppered with papers in which the principle of educational responsibility for special behavior problems is adumbrated, or reported as successfully approached. Curiously, however, this is perhaps less true of the Probation Association than of other organizations discussing educational-correctional topics.

In this matter, however, social workers and school men (and women) have not awaited the opinion or co-operation of the probation group, welcome as it is. They are, here and there, virtually beginning to "short-circuit" the problem within the non-court agencies—thus "shunting out" the probation office except for irreconcilable cases—which are, of course, and will be, quite numerous enough to keep the probation officers in jobs. The experiments are dealing especially with the very type of child that is found in the "unofficial" work of the courts. Local conditions and personnel determine which branch of the educational staff makes the venture: Attendance, Psychological, Vocational, Visiting Teacher, Special Class or School. Sometimes a social agency serves the educational institutions in this capacity.

¹⁹"Children's Court Problems," published by N. Y. State Probation Commission, Albany N. Y., page 7 (undated).

²⁰"Probation in Children's Courts," Children's Bureau, 1922.

Let us consider a few of the methods of non-court agencies in typical cities.

1. In Newark, N. J., there is a very active attendance department in connection with the schools. The chief attendance officer sits once a week as a judge in an informal court in the city hall. Truants and parents are brought before him and he always attempts to deal with the situation without court action. Only in cases of persistent truancy is the child brought before the juvenile court.

Also the city maintains an institution for boys of this type who may be referred there by the attendance department without being committed by the juvenile court.

2. In Minneapolis the attendance department is a socialized agency equipped with trained social workers. It has under its jurisdiction the matter of attendance, of vocational guidance and visiting teaching. It should be able to handle most of its behavior cases without court reference.

The Children's Protective Society attempts to meet situations of juvenile delinquency before they reach the court stage, through its Big Brother and Big Sister work.

3. In Milwaukee the "School Welfare" department refers to the juvenile court only cases in which the parents cannot or will not co-operate in remedying the condition which leads up to delinquency. A child who has committed some misdemeanor is brought with the parents to the officer of the supervisor of attendance. There the case is thoroughly discussed with the child and the parents. When they feel that the parents are able and willing to correct the child they turn the child back to them and thus avoid a court record against the child. Minor delinquency cases settled in this office average about 200 per year. Mr. Pestalozzi, the supervisor of the attendance department says that the school should guide the child through the school years and protect it against a court record. This can be done, he says, by referring all minor child delinquencies to the school authorities instead of to the juvenile court. In the year 1920-1921 the attendance department made 33,205 investigations. There were only 57 cases that appeared before the juvenile court. Of these 57, 41 were cases of children who neglected to attend the continuation school which all working children must attend one-half day each week.

4. Louisville, Ky., attempts in the following way to avoid sending cases to court: The Associated Charities and the attendance department of the schools hold case conferences on children whose parents claim to be unable to send them to school. The attendance depart-

ment first reports these cases to the Charities. The latter sends a visitor to investigate, and the two organizations pool their information and decide whether the case is one for relief or prosecution. If the former, the Charities takes care of the family. If the latter, action is taken in the juvenile court. The Jewish Welfare Federation in Louisville, like similar agencies elsewhere, also keeps as many cases as possible out of court by very close supervision.

5. In Salt Lake City, Anna C. Clayton, head of the attendance department, says: "The department deals with all children under 18 years of age, unless the mistake or offense was committed outside of school hours and reported direct to the juvenile court. If the case referred to the court is not of a serious nature, it is referred back to the school attendance department. The juvenile court assumes the attitude that all cases should be handled by the attendance department whenever possible. The only cases referred to the juvenile court from the attendance department are those where the home fails to lend the proper influence for the correction of the child, either through inability or neglect.

"We have a detention home for boys and girls directly under the juvenile court, but we are working for special schools and classes to take care of all problems. The attendance department is held responsible for all school attendance between the ages of 8 and 18 years. All working permits are issued through the department and a check kept on those working and in school."

6. In Seattle the attendance department has charge of all truancy cases and other sorts of misbehavior. They have a home visitor and an attendance officer who make adjustments in the home. Also there is a prevocational class under the attendance department.

"The Chief Probation Officer of the Seattle Juvenile Court, reporting on co-operation with the schools, says: 'A close, fraternal co-operation is encouraged by the officials of the court with the school authorities. . . . The school medical clinic provides surgical and medical treatment with promptness and efficiency at our request. School attendance officers handle many disciplinary cases by school probationary supervision, and cases brought by them into court usually require institutional treatment.'²¹

7. "The Chief Probation Officer of the San Francisco Juvenile Court says: 'We co-operate with the School Department in matters of truancy to prevent arrests or appearance before the court on petition, handling these matters in the office and in about ninety per cent of the

²¹"Methods of Supervising Persons on Probation," report by N. Y. State Probation Commission (1922); pp. 39-40.

cases remedying the situation without the need of formal court order.'"²¹

8. The Board of Education of Rochester, N. Y., has a child study department and a visiting teachers' department. The child study department conducts the physical and mental examination of the child and does all in its power to bring the child up to the best possible condition. There are special classes to which children are assigned when necessary. When a case comes to the attention of the court, if possible the case is referred to one of the social agencies without formal court action.

Visiting teachers are sent out by the attendance department. Even the truancy cases which the officers think should be referred to the court are first given over to the visiting teacher for a complete investigation and treatment without court action. If these efforts fail, then the truant officer files his petition to the court and the visiting teacher gives her understanding of the case and her recommendations. In one month 24 truants were referred to her and saved from court action.

9. The attendance department in Cincinnati is attempting to deal with children in the early stages of delinquency. They also had for a time in the vocational bureau an "adjustment officer" whose entire time is given to children who are sufficiently delinquent so that they would be referred to the juvenile court if no other means of dealing with them were available. Also in the vocational bureau of the public schools is the Psychological Laboratory, which makes examinations for both the court and the schools. The vocational bureau was started in 1910, but organization was not completed until 1911. The bureau is a joint enterprise of the public schools and a private organization, the Council of Social Agencies. It is organized as a public school department. The Council of Social Agencies and Schmidlapp Foundation bear one-third of the expense of the bureau. The reason for this joint work is that social workers are becoming more and more convinced that work for children is the most fundamental and important type of social work and that all of the children can be reached only through the channel of the public schools. Each school has a teacher representing the bureau in that school. The vocational bureau of Cincinnati serves all of the children of all the schools in these ways:

(1) It keeps all the children in school through its attendance department. The officer tends to the case if the child is absent.

(2) It helps to solve children's problems by making mental and physical examinations of children in its psychological clinic and recom-

mending suitable types of education. Dull children, bright children, queer children, and naughty children all need special prescriptions.

(3) It measures the educational progress of the child.

(4) It supervises young workers in industry to make sure that their work is not dangerous and that they are not working too long. It finds positions for young people who have to work, and furnishes advice to help them to become steady, reliable, useful and self-respecting employees.

(5) It secures scholarships for boys and girls who want an education and cannot afford it.

(6) It secures supervision for feeble-minded young people who may, under favorable conditions, be able to earn their own living.

(7) It studies the delinquent child, both in the juvenile court and before he reaches the court.

In Cincinnati a remarkable co-operative arrangement was worked out by which the vocational and psychological services of the schools, already dealing with behavior difficulties, were made available to the probation office.

"In undertaking the mental testing for the juvenile court, it soon became evident that many of the children sent to the court had previously been problems to the school. Quite often, children tested by the court had previously been examined by the laboratory at the request of the school. Both the judge and the director of the vocation bureau were convinced that preventive measures, such as those at command of the juvenile court, should be applied as soon as the first symptoms of delinquency appear. Why wait until delinquent tendencies develop to the point of a court offense? The school and the court authorities united in a request to the Council of Social Agencies for a salary to finance an 'adjustment officer' to attempt to deal with incipient delinquency in children of school age. This officer proceeds very much as a good probation officer would. If the case proves to be one for which legal action is in the end necessary the child is referred to the court. It has been possible in very many instances, however, to prevent a court experience. The office is too young to know in what proportion of cases the delinquent tendency is permanently corrected. The adjustment officer deals with no feeble-minded children."

Mrs. Helen Woolley, who established this work, says:²²

"Most of the children that come to the juvenile court have, we find, already been problems in the public schools. Corrective measures are being introduced in two directions. We are keeping full and complete records of the children who pass through the schools, in the form of accumulative record card on which four kinds of information are recorded—academic records, medical examinations, fundamental family facts, and teacher's estimate of personality. In addition we have a psychological

²²Apparently this Cincinnati Bureau of Adjustment has unfortunately not been so actively developed since Mrs. Woolley left it.

laboratory which examines about one thousand children a year and those are, of course, the problem children of the schools.

"The system has been in operation long enough to show that many of the cases which come to the court are those of children for whom we have already a fairly accurate and adequate record in terms of mental tests. A part of the investigation is therefore already made for the court.

"We are now beginning a movement by which delinquent school children are to be taken care of along the lines suggested by Mrs. Mumford;²³ that is the lesser cases of delinquency in children who are still under the compulsory education age will be handled by the schools. A few years ago our attendance department used to send many truancy cases to court while now it sends almost none. Judge Hoffman is thoroughly in sympathy with the idea, and we are trying to work out a plan of co-operation."

10. In Youngstown and Canton, Ohio, "there has been excellent teamwork . . . between the public departments and private agencies engaged in juvenile work, and effective co-operation of both with homes, schools, churches and industries. . . . Last year (1920) only 42 cases reached the juvenile court in [Canton]. A decade and a half ago the court was crowded."²⁴

11. In North Carolina the county superintendent of public welfare "is the chief probation officer, . . . the chief school attendance officer, and the local officer to carry out the provisions of the child labor law."²⁵

12. Recently the writer heard about the work of a school nurse in Highland Park, Ill., in the Deerfield High School, a township high school for several smaller towns and the surrounding country. Many of the students are the children of the servants of the wealthy North Shore people of Highland Park, Lake Bluff, and others. The high school has about 700 students. This year a school nurse was appointed, who has discovered the need for social work among the homes of these boys and girls. Many children whom the teachers considered incorrigible and beyond all hope, she has been able to help by advice and financial aid in many cases. Truancy has been reduced to almost nothing since everyone must report to her for an examination after they have been absent. The school is handling work here that would in many cases be juvenile court work.

13. In Philadelphia, while the court has developed extensive unofficial procedure, there are a remarkable group of agencies dealing with pre-delinquents or behavior problems on a non-court educational

²³See above: p. 23. Standards of Child Welfare. Children's Bureau Publication No. 60 (Washington, 1919).

²⁴Survey, Dec. 24, 1921, p. 471.

²⁵R. F. Beasley, Commissioner of Public Welfare of North Carolina, National Probation Association, 1920.

basis: The compulsory education department, the Children's Bureau and its Child Study Bureau, the S. P. C. C., the University of Pennsylvania Psychological Clinic, and the White-Williams Foundation. The White-Williams Foundation links up with the schools. It is a private organization, a society for the study and assistance of children of school age, educational and vocational placement, home visiting, scholarships. "School counselors" are sent to various schools to check up on the waste of child power that occurs every day. The school counselor reaches the boys and girls during the early years, which are so critical in the life of every child. She does not take the place of the nurse, doctor, teacher, or psychologist, but she can summarize the facts supplied by each, supplement these facts with the results of her own home visiting, and make a scientific social diagnosis of the child. Usually the cases are referred to her through the school principal. As a result of her investigations she often recommends special classes or courses for certain children. One counselor aided the establishment of a health clinic in her school. There is a counselor attached to the compulsory education department, and recently, because the school authorities saw the need for more of these "school engineers," as they are called, the Board of Education has appointed 16 new attendance officers and three co-ordinating teachers in the Continuation School. Also at the Lee Special School for Boys there is a special case worker from the Foundation.

14. In Boston the Home for Little Wanderers, the Children's Aid Society, and other child caring organizations work closely with the Baker Foundation, and many cases are thus handled before reaching the court. There are about 15 visiting teachers.^{25a}

15. Even before the juvenile court was fairly established, Chicago's school system established a department of child study, but this department never developed its possibilities in the direction of behavior problems.²⁶

16. In New York City an experiment was tried in a probationary school (No. 64) by which difficult children were given more intensive study and care, and were in many cases improved without recourse to the court.²⁷ In 30 schools Miss Farrell has found approximately 5,000 incipient delinquents among 150,000 children in New York City.

The Bureau of Children's Guidance, serving children referred by the visiting teachers of five schools, is well under way. This is a remarkable demonstration of non-court preventive work launched by the Commonwealth Fund.

It is interesting to note that the original "Berks Report" recom-

^{25a}Cf. Survey, April 23, 1921.

²⁶"Preventive Treatment of Neglected Children," H. H. Hart, pp. 367-70.

mended, for the visiting teachers of New York, a Division of Prevention and *Probation*, to include incorrigibility.

17. "Five special schools, in Baltimore, Boston, Buffalo, New York and Watertown, take truants only. The rest of the schools studied take delinquents as well. In all cases commitment may be made by the Juvenile Court; in Chicago, Cleveland, Kansas City, Newark, New York, Spokane, Watertown by the school authorities also, although in some instances petition must be made by them to the court. In Buffalo, Newark, and Spokane children may be admitted on petition of parents as well."²⁸

The Chicago and Cook County School for Boys is also under educational auspices.

VI

The writer has summarized above a theory of the agencies dealing with behavior problems which, while drastic in its ultimate implications, seems to be borne out by the opinions of recognized experts in various fields, and (especially during the past ten years) by numerous ventures in actual practice, undertaken principally from the side of the educational system.

The apparent lack of recognition on the part of many probation officers hitherto toward this mass of opinion and experiment is unfortunate. In view, however, of the basis of selection of these officials in many places, and the absorption of their interests in other directions, it is not to be wondered at. The appointment by the National Probation Association of a new committee on the relation of educational agencies to probation and juvenile court work, which will present the subject for fuller discussion at the current annual meeting, is an indication of progress.

Eventually it is to be hoped that probation officers as a profession will actually align themselves with the educational as well as with the social work and prison groups.²⁹ It is quite as important at the present juncture that they should meet in connection with conventions of psychologists and special-educationists as with prison wardens or charity agents. The educational value of such a connection for both school administrators and court officials would be salutary. It would symbolize and demonstrate visibly the growing rapprochement in types of service rendered and in actual mutual interest.

The still more fundamental shift of public sentiment and attitude toward behavior problems as educational rather than penal in character is epochal in importance.

²⁷Dr. Sanger Brown, National Conference of Social Work, 1920.

²⁸James S. Hiatt, U. S. Bureau of Education, "The Truant Problem and the Parental School" (out of print).

²⁹In this connection cf. the letter of Miss Carrie Weaver Smith, quoted above. (Survey, Oct. 15, 1922, p. 21).